

1 MATTHEW D. POWERS (Bar No. 104795)

Email: [matthew.powers@weil.com](mailto:matthew.powers@weil.com)

2 EDWARD R. REINES (Bar No. 135960)

Email: [edward.reines@weil.com](mailto:edward.reines@weil.com)

3 WEIL, GOTSHAL & MANGES LLP

201 Redwood Shores Parkway

4 Redwood Shores, CA 94065

Telephone: (650) 802-3000

5 Facsimile: (650) 802-3100

6 DAVID J. HEALEY

Email: [david.healey@weil.com](mailto:david.healey@weil.com)

7 ANITA E. KADALA

Email: [anita.kadala@weil.com](mailto:anita.kadala@weil.com)

8 WEIL, GOTSHAL & MANGES LLP

700 Louisiana, Suite 1600

9 Houston, Texas 77002

Telephone: (713) 546-5000

10 Facsimile: (713) 224-9511

11 DAVID C. RADULESCU

Email: [david.radulescu@weil.com](mailto:david.radulescu@weil.com)

12 WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

13 New York, New York 10153-0119

Telephone: (212) 310-8000

14 Facsimile: (212) 310-8007

15 BRIAN C. RIOPELLE

E-mail: [briopelle@mcguirewoods.com](mailto:briopelle@mcguirewoods.com)

16 MCGUIRE WOODS, LLP

One James Center

17 901 East Cary Street

Richmond, Virginia 23219-4030

18 Telephone: (804) 775-1000

19 Facsimile: (804) 775-1061

20 Attorneys for Defendants

SAMSUNG ELECTRONICS CO., LTD.,

21 SAMSUNG ELECTRONICS AMERICA, INC.,

SAMSUNG SEMICONDUCTOR, INC., and

22 SAMSUNG AUSTIN SEMICONDUCTOR, L.P.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

RAMBUS INC.,  
Plaintiff,

v.  
HYNIX SEMICONDUCTOR INC., HYNIX  
SEMICONDUCTOR AMERICA INC., HYNIX  
SEMICONDUCTOR MANUFACTURING  
AMERICA INC.,

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG  
ELECTRONICS AMERICA, INC., SAMSUNG  
SEMICONDUCTOR, INC., SAMSUNG AUSTIN  
SEMICONDUCTOR, L.P.,

NANYA TECHNOLOGY CORPORATION,  
NANYA TECHNOLOGY CORPORATION U.S.A.,

INOTERA MEMORIES, INC.,  
Defendants.

Case No. C 05 00334 RMW

FIRST AMENDED ANSWER TO  
FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT AND  
JURY DEMAND AND  
AFFIRMATIVE DEFENSES AND  
COUNTERCLAIMS

JURY TRIAL DEMANDED

**FIRST AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS**

Defendants and Counterclaim Plaintiffs Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Semiconductor, Inc., and Samsung Austin Semiconductor, L.P., (collectively "Samsung") respectfully answer Plaintiff Rambus Inc.'s ("Rambus") First Amended Complaint for Patent Infringement and Jury Demand ("Complaint") in correspondingly numbered paragraphs as follows:

**THE PARTIES**

Samsung admits that Rambus is a corporation organized and existing under the laws of Delaware. Samsung is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 1 of the Complaint, and, on that basis, denies the same.

1. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Complaint, and, on that basis, denies the same.

2. Samsung admits that Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of Korea, with a principal place of business at 250, 2-Ka, Taepyung-Ro, Chung-Ku, Seoul, South Korea, 100-742. Samsung admits that Samsung Electronics America, Inc. is a wholly owned subsidiary of Samsung Electronics Co., Ltd., with its

1 principal place of business at 105 Challenger Road, Ridgefield Park, NJ 07660. Samsung admits  
2 that Samsung Semiconductor, Inc. is a wholly owned subsidiary of Samsung Electronics Co., Ltd.,  
3 with its principal place of business at 3655 North First Street, San Jose, CA 95134. Samsung  
4 admits that Samsung Austin Semiconductor, L.P. is a limited partnership owned by Samsung  
5 Electronics Co., Ltd., with its principal place of business at 12100 Samsung Boulevard, Austin, TX  
6 78754. Samsung denies that it transacts substantial business in this district on an ongoing basis.

7           3. Samsung is without knowledge or information sufficient to form a belief as  
8 to the truth of the allegations in Paragraph 4 of the Complaint, and, on that basis, denies the same.

9           4. Samsung is without knowledge or information sufficient to form a belief as  
10 to the truth of the allegations in Paragraph 5 of the Complaint, and, on that basis, denies the same.

11           5. To the extent Paragraph 6 applies to Samsung, Samsung denies those  
12 allegations. With respect to the other defendants, Samsung is without knowledge or information  
13 sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Complaint, and, on  
14 that basis, denies the same.

#### 15                                   **NATURE OF THE ACTION**

16           6. Samsung admits the Complaint purports to be an action for patent  
17 infringement, but denies any wrongdoing or liability.

18           7. To the extent Paragraph 8 applies to Samsung, Samsung denies those  
19 allegations. With respect to the other defendants, Samsung is without knowledge or information  
20 sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Complaint, and, on  
21 that basis, denies the same.

#### 22                                   **JURISDICTION AND VENUE**

23           8. Samsung admits that the Complaint purports to be an action for patent  
24 infringement, but denies any wrongdoing or liability. Samsung admits that this Court has subject-  
25 matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

26           9. Samsung does not contest personal jurisdiction in this Court. With respect to  
27 the other defendants, Samsung is without knowledge or information sufficient to form a belief as to  
28 the truth of the allegations in Paragraph 10 of the Complaint, and on that basis, denies the same. To

1 the extent not expressly admitted herein, Samsung denies the remaining allegations of Paragraph  
2 10.

3 10. Samsung does not contest that venue is proper in this Court. With respect to  
4 the other defendants, Samsung is without knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in Paragraph 11 of the Complaint, and on that basis, denies the same. To  
6 the extent not expressly admitted herein, Samsung denies the remaining allegations of Paragraph  
7 11.

### 8 **PURPORTED FACTUAL BACKGROUND**

9 11. Samsung admits that Rambus has executed licenses in the past. To the  
10 extent not expressly admitted herein, Samsung denies the remaining allegations in Paragraph 12 of  
11 the Complaint.

12 12. Samsung admits that it is in the business of, *inter alia*, making, using, selling  
13 importing, and/or offering for sale products that consist of or include DDR2, GDDR2, and/or  
14 GDDR3 memory components, and DDR2 memory modules. Defendants lack sufficient  
15 information to admit or deny the remaining allegations of Paragraph 13, and on that basis, deny the  
16 same. To the extent not expressly admitted herein, Samsung denies the remaining allegations of  
17 Paragraph 13 of the Complaint.

18 13. Samsung is without knowledge or information sufficient to form a belief as  
19 to the truth of the allegations in Paragraph 14 of the Complaint, and on that basis, denies the same.

20 14. Samsung admits that it has made, used, sold, imported or offered for sale  
21 products that consist of or include DDR2, GDDR2, and/or GDDR3 memory components, and  
22 DDR2 memory modules. Defendants lack sufficient information to admit or deny the remaining  
23 allegations of Paragraph 15, and on that basis, deny the same. To the extent not expressly admitted  
24 herein, Samsung denies the remaining allegations of Paragraph 15 of the Complaint.

25 15. Samsung is without knowledge or information sufficient to form a belief as  
26 to the truth of the allegations in Paragraph 16 of the Complaint, and on that basis, denies the same.

27 16. Samsung is without knowledge or information sufficient to form a belief as  
28 to the truth of the allegations in Paragraph 17 of the Complaint, and on that basis, denies the same.

1           17. Samsung admits that on its face, U.S. Patent No. 6,182,184 (the “184  
2 Patent”) purports to have issued on January 30, 2001, and to be entitled “Method of Operating a  
3 Memory Device Having a Variable Data Input Length,” but denies it was duly and legally issued.  
4 All other allegations of Paragraph 18 not specifically admitted herein are denied.

5           18. Samsung admits that on its face, U.S. Patent No. 6,260,097 (the “097  
6 Patent”) purports to have issued on July 10, 2001, and to be entitled “Method and Apparatus for  
7 Controlling a Synchronous Memory Device,” but denies it was duly it was duly and legally issued.  
8 All other allegations of Paragraph 19 not specifically admitted herein are denied.

9           19. Samsung admits that on its face, U.S. Patent No. 6,266,285 (the “285  
10 Patent”) purports to have issued on July 24, 2001, and to be entitled “Method of Operating a  
11 Memory Device Having Write Latency,” but denies it was duly and legally issued. All other  
12 allegations of Paragraph 20 not specifically admitted herein are denied.

13           20. Samsung admits that on its face, U.S. Patent No. 6,314,051 (the “051  
14 Patent”) purports to have issued on November 6, 2001, and to be entitled “Memory Device Having  
15 Write Latency,” but denies it was duly and legally issued. All other allegations of Paragraph 21 not  
16 specifically admitted herein are denied.

17           21. Samsung admits that on its face, U.S. Patent No. 6,324,120 (the “120  
18 Patent”) purports to have issued on November 27, 2001, and to be entitled “Memory Device  
19 Having a Variable Data Output Length,” but denies it was duly and legally issued. All other  
20 allegations of Paragraph 22 not specifically admitted herein are denied.

21           22. Samsung admits that on its face, U.S. Patent No. 6,378,020 (the “8,020  
22 Patent”) purports to have issued on April 23, 2002, and to be entitled “System Having Double Data  
23 Transfer Rate and Intergrated [sic] Circuit Therefor,” but denies it was duly and legally issued. All  
24 other allegations of Paragraph 23 not specifically admitted herein are denied.

25           23. Samsung admits that on its face, U.S. Patent No. 6,426,916 (the “916  
26 Patent”) purports to have issued on July 30, 2002, and to be entitled “Memory Device Having a  
27 Variable Data Output Length and a Programmable Register,” but denies it was duly and legally  
28 issued. All other allegations of Paragraph 24 not specifically admitted herein are denied.

1           24. Samsung admits that on its face, U.S. Patent No. 6,452,863 (the “863  
2 Patent”) purports to have issued on September 17, 2002, and to be entitled “Method of Operating a  
3 Memory Device Having a Variable Data Input Length,” but denies it was duly and legally issued.  
4 All other allegations of Paragraph 25 not specifically admitted herein are denied.

5           25. Samsung admits that on its face, U.S. Patent No. 6,493,789 (the “789  
6 Patent”) purports to have issued on December 10, 2002, and to be entitled “Memory Device Which  
7 Receives Write Masking and Automatic Precharge Information,” but denies it was duly and legally  
8 issued. All other allegations of Paragraph 26 not specifically admitted herein are denied.

9           26. Samsung admits that on its face, U.S. Patent No. 6,496,897 (the “897  
10 Patent”) purports to have issued on December 17, 2002, and to be entitled “Semiconductor Memory  
11 Device Which Receives Write Masking Information,” but denies it was duly and legally issued. All  
12 other allegations of Paragraph 27 not specifically admitted herein are denied.

13           27. Samsung admits that on its face, U.S. Patent No. 6,546,446 (the “6,446  
14 Patent”) purports to have issued on April 8, 2003, and to be entitled “Synchronous Memory Device  
15 Having Automatic Precharge,” but denies it was duly and legally issued. All other allegations of  
16 Paragraph 28 not specifically admitted herein are denied.

17           28. Samsung admits that on its face, U.S. Patent No. 6,564,281 (the “281  
18 Patent”) purports to have issued on May 13, 2003, and to be entitled “Synchronous Memory Device  
19 Having Automatic Precharge,” but denies it was duly and legally issued. All other allegations of  
20 Paragraph 29 not specifically admitted herein are denied.

21           29. Samsung admits that on its face, U.S. Patent No. 6,584,037 (the “037  
22 Patent”) purports to have issued on June 24, 2003, and to be entitled “Memory Device Which  
23 Samples Data After an Amount of Time Transpires,” but denies it was duly and legally issued. All  
24 other allegations of Paragraph 30 not specifically admitted herein are denied.

25           30. Samsung admits that on its face, U.S. Patent No. 6,697,295 (the “295  
26 Patent”) purports to have issued on February 24, 2004, and to be entitled “Memory Device Having  
27 a Programmable Register,” but denies it was duly and legally issued. All other allegations of  
28 Paragraph 31 not specifically admitted herein are denied.

1           31. Samsung admits that on its face, U.S. Patent No. 6,701,446 (the “1,446  
2 Patent”) purports to have issued on March 2, 2004, and to be entitled “Power Control System for  
3 Synchronous Memory Device,” but denies it was duly and legally issued. All other allegations of  
4 Paragraph 32 not specifically admitted herein are denied.

5           32. Samsung admits that on its face, U.S. Patent No. 6,715,020 (the “5,020  
6 Patent”) purports to have issued on March 30, 2004, and to be entitled “Synchronous Integrated  
7 Circuit Device,” but denies it was duly and legally issued. All other allegations of Paragraph 33 not  
8 specifically admitted herein are denied.

9           33. Samsung admits that on its face, U.S. Patent No. 6,751,696 (the “696  
10 Patent”) purports to have issued on June 15, 2004, and to be entitled “Memory Device Having a  
11 Programmable Register,” but denies it was duly and legally issued. All other allegations of  
12 Paragraph 34 not specifically admitted herein are denied.

13           34. Samsung admits that on its face, U.S. Patent No. 6,807,598 (the “598  
14 Patent”) purports to have issued on October 19, 2004, and to be entitled “Integrated Circuit Device  
15 Having Double Data Rate Capability,” but denies it was duly and legally issued. All other  
16 allegations of Paragraph 35 not specifically admitted herein are denied.

17           35. Samsung is without knowledge or information sufficient to form a belief as  
18 to the truth of the allegations in Paragraph 36 of the Complaint, and on that basis, denies the same.

19           36. To the extent Paragraph 37 applies to Samsung, Samsung denies those  
20 allegations. With respect to the other defendants, Samsung is without knowledge or information  
21 sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Complaint, and on  
22 that basis, denies the same.

23           37. To the extent Paragraph 38 applies to Samsung, Samsung denies those  
24 allegations. With respect to the other defendants, Samsung is without knowledge or information  
25 sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Complaint, and on  
26 that basis, denies the same.



**COUNT 1: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,182,184**

38. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-38 above.

39. Samsung denies the allegations in Paragraph 40 of the Complaint.

**COUNT 2: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,260,097**

40. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-40 above.

41. Samsung denies the allegations in Paragraph 42 of the Complaint.

**COUNT 3: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,266,285**

42. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-42 above.

43. Samsung denies the allegations in Paragraph 44 of the Complaint.

**COUNT 4: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,314,051**

44. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-44 above.

45. Samsung denies the allegations in Paragraph 46 of the Complaint.

**COUNT 5: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,324,120**

46. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-46 above.

47. Samsung is without knowledge or information sufficient to admit or deny the allegations in Paragraph 48, and on that basis, denies the same.

**COUNT 6: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,378,020**

48. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-48 above.

49. Samsung is without knowledge or information sufficient to admit or deny the allegations in Paragraph 50, and on that basis, denies the same.



**COUNT 7: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,426,916**

50. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-50 above.

51. Samsung is without knowledge or information sufficient to admit or deny the allegations in Paragraph 52, and on that basis, denies the same.

**COUNT 8: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,452,863**

52. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-52 above.

53. Samsung is without knowledge or information sufficient to admit or deny the allegations in Paragraph 54, and on that basis, denies the same.

**COUNT 9: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,493,789**

54. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-54 above.

55. Samsung denies the allegations in Paragraph 56 of the Complaint.

**COUNT 10: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,496,897**

56. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-56 above.

57. Samsung denies the allegations in Paragraph 58 of the Complaint.

**COUNT 11: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,546,446**

58. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-58 above.

59. Samsung denies the allegations in Paragraph 60 of the Complaint.

**COUNT 12: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,564,281**

60. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-60 above.

61. Samsung denies the allegations in Paragraph 62 of the Complaint.

**COUNT 13: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,584,037**

62. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-62 above.

63. Samsung denies the allegations in Paragraph 64 of the Complaint.

**COUNT 14: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,697,295**

64. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-64 above.

65. Samsung denies the allegations in Paragraph 66 of the Complaint.

**COUNT 15: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,701,446**

66. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-66 above.

67. Samsung denies the allegations in Paragraph 68 of the Complaint.

**COUNT 16: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,715,020**

68. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-68 above.

69. Samsung denies the allegations in Paragraph 70 of the Complaint.

**COUNT 17: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,751,696**

70. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-70 above.

71. Samsung denies the allegations in Paragraph 72 of the Complaint.

**COUNT 18: DENIAL OF ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,807,598**

72. Samsung refers to and incorporates herein its answers as provided in Paragraphs 1-72 above.

73. Samsung denies the allegations in Paragraph 74 of the Complaint.

**DENIAL OF RAMBUS'S PRAYER FOR RELIEF**

74. Samsung denies that Rambus is entitled to be awarded any of the relief sought in its prayer for relief against Samsung. Samsung has not directly, indirectly, contributorily and/or by inducement, literally and/or by the doctrine of equivalents infringed—willfully or

otherwise—any of the patents asserted by Rambus. Rambus is not entitled to recover statutory damages, compensatory damages, or accounting, injunctive relief, costs, fees, interest, or any other type of recovery from Samsung. Rambus’s prayer should, therefore, be denied in its entirety and with prejudice, and Rambus should take nothing therefore. Samsung asks that judgment be entered for it and that it be awarded attorneys’ fees in defending against the Complaint, together with such other and further relief the Court deems appropriate.

## **I. AFFIRMATIVE DEFENSES**

As and for its affirmative defenses, Samsung alleges as follows:

### **First Affirmative Defense – Failure to State a Claim**

75. The Complaint fails to state a claim upon which relief can be granted because Samsung has not performed any act or thing and is not proposing to perform any act or thing in violation of any rights validly belonging to Plaintiff.

### **Second Affirmative Defense – Noninfringement**

76. The ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents are invalid and unenforceable as set forth herein.

77. Samsung does not infringe and has not infringed, either directly or indirectly, does not and has not contributed to infringement, and does not and has not induced the infringement of any claim of the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, or ‘598 Patents.

### **Third Affirmative Defense – Patent Invalidity**

78. The ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents are invalid for failure to meet the “Conditions for Patentability” of 35 U.S.C. §§ 102 and 103 because the alleged inventions thereof are taught by, suggested by, and/or are obvious in view of, the prior art, and no claim of the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents can be validly construed to cover any Samsung device, system or operating method related to DRAM memory.

79. The ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents are invalid for failure to meet the “Specification” requirements of 35

U.S.C. § 112 because the written specifications thereof do not describe the alleged inventions and the manner and process of making and using them in the form required by § 112, and no claim of the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents can be validly construed to cover any Samsung device, system or operating method related to DRAM memory.

#### **Fourth Affirmative Defense – Prosecution Laches**

80. Rambus's claims for relief and prayer for damages are barred, in whole or in part, because the equitable doctrine of prosecution laches renders the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents unenforceable.

#### **Fifth Affirmative Defense – Unclean Hands**

81. Rambus's claims for relief and prayer for damages are barred, in whole or in part, because the equitable doctrine of unclean hands renders the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents unenforceable.

#### **Sixth Affirmative Defense – Equitable Estoppel**

82. Rambus's claims for relief and prayer for damages are barred, in whole or in part, because the doctrine of equitable estoppel renders the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents unenforceable.

#### **Seventh Affirmative Defense – Estoppel**

83. Rambus is estopped by its conduct during the course of its membership in JEDEC from asserting, amongst others, any of the patents that originate from the 1990 Farmwald '898 application or the October, 1995 Ware '294 application, including but not limited to the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '5,020, '696, and '598 Patents against Samsung's SDRAM products, the facts and circumstances of which are set forth herein.

84. JEDEC with its associated committees is and, at all time relevant herein, has been the engineering standardization body for solid-state products in the United States and is part of the larger Electronic Industries Alliance ("EIA"). JEDEC has 300 member companies and 1800 individual committee participants. Standards promulgated by JEDEC, particularly for memories, are the predominant standards world-wide.

1           85.     At all times relevant herein, the semiconductor industry relied on JEDEC to  
2 develop the memory interface standard(s) for DRAMs and other memories, which are used  
3 predominantly in successive generations of computers, including mainframe, workstation, desktop,  
4 and laptop computers as well as many other electronic devices. JEDEC operated and continues to  
5 operate through committees populated by industry representatives with a background in the  
6 engineering and marketing requirements of the industry. In choosing standards, proposals for  
7 inclusion in or changes to existing standards or standards under consideration would be made at  
8 JEDEC meetings by its members. In the intervals between meetings, members would invest time  
9 and resources evaluating these proposals for suitability. Over a series of meetings, input from  
10 industry participants would be considered. Gradually, a consensus would tend to emerge on the  
11 specific set of features that best suited the then current requirements of the market by cost and  
12 performance measures. JEDEC was always pushed to move the standard ahead at the pace desired  
13 by the market, and to promulgate new and evolving standards in advance of their actual need in the  
14 market.

15           86.     JEDEC has rules and procedures designed to guarantee that JEDEC (and its  
16 rules) is not used by its members for anticompetitive or illegal purposes. One specific kind of  
17 anticompetitive effect that JEDEC guards against its unintended inclusion in a JEDEC standard of  
18 patented elements or requirements. JEDEC does not prohibit standards that require the use of  
19 patented technology, but JEDEC does require that any decision to incorporate a patented element in  
20 a JEDEC standard be made with knowledge and full disclosure of the fact that a proposed standard  
21 includes or requires patented technology and any consequently required patent licenses that would  
22 be needed to implement the standard. JEDEC's policy is neutral on incorporation of patented  
23 elements in a standard so long as: (a) the standard setting committee has a full and fair opportunity  
24 to evaluate the existence of the patent or possible patent, and (b) the purported owner of the patent  
25 or possible patent is willing to license the patent royalty free or on reasonable and non-  
26 discriminatory terms.

1           87. Recognizing that no written rule can be so clear and precise that someone  
2 cannot find a way to evade or subvert its intent, JEDEC's procedure relied on the good faith  
3 participation of its members.

4           88. In 1992, Rambus joined JEDEC. Rambus became interested in joining  
5 JEDEC for two reasons. First, it provided Rambus with insight into the industry's efforts to develop  
6 a state-of-the-art open DRAM memory interface standard. Second, it presented Rambus with an  
7 opportunity to meet prospective customers and pitch RDRAM license agreements to those  
8 customers.

9           89. Rambus joined JEDEC at the time when many JEDEC members were  
10 advocating the adoption of a synchronous memory interface for DRAMs in place of the then-  
11 dominant asynchronous (or "conventional") DRAM interface. JEDEC's work on synchronous  
12 DRAM interface technology was independent of any work by Rambus in this area.

13           90. The first SDRAM standard was adopted in JEDEC in 1993.

14           91. The current SDRAM products represent foreseeable extensions and  
15 improvements of the base SDRAM standard which were known to or anticipated by Rambus and  
16 other JEDEC members when the base SDRAM standard was adopted at JEDEC in 1993. Many of  
17 the features first required by the JEDEC DDR SRAM, DDR2 SDRAM, and/or GDDR3 SDRAM  
18 interface standards were first included or proposed for inclusion during JEDEC's consideration,  
19 while Rambus was a JEDEC member, of standards for SDRAM and for DRAMs that would follow  
20 SDRAMs in the market. Other features required by the JEDEC DDR SDRAM, DDR2 SDRAM,  
21 GDDR3, and/or related interface standards were originally included in and required by the JEDEC  
22 standards for SDRAM.

23           92. As a result of its membership in JEDEC, Rambus agreed, both explicitly and  
24 implicitly, that it would abide by the rules governing JEDEC members. These rules, among other  
25 things, required JEDEC members, including Rambus, to disclose to other JEDEC members any  
26 patents, patent applications or intentions to file patents that might bear upon standards being  
27 considered by JEDEC committees.

1           93. By participating as a JEDEC member, Rambus knew or should have known  
2 that Samsung would be reasonably induced to rely upon Rambus's promises and representations  
3 that it would disclose any patents, patent applications, or intentions to file patents that may bear  
4 upon standards being considered by JEDEC.

5           94. Samsung reasonably relied upon Rambus's promises and representations and  
6 was induced to design many of its products in accordance with standards adopted by JEDEC.

7           95. Rambus's infringement allegations arise, at least in part, as a result of  
8 Samsung implementing one or more SDRAM standards adopted by JEDEC, through the design,  
9 manufacture, and sale of memory products complying with the JEDEC standards for, among others,  
10 SDRAM components and/or modules. Samsung memory products complying with JEDEC  
11 standards are sometimes referred to herein as "JEDEC standard products."

12           96. Samsung is informed and believes that Rambus never disclosed to other  
13 JEDEC committee members its intention to file any of the patents, or claims of the type or scope  
14 contained in patents that originated with the 1990 Farmwald '898 application, and/or the 1995 Ware  
15 '294 application, including, but not limited to the '184, '097, '285, '051, '789, '897, '6,446, '281,  
16 '037, '295, '5,020, '696, and '598 Patents asserted herein against Samsung's SDRAM products or  
17 other products, thereby breaching its duties of disclosure and good faith toward JEDEC and the  
18 members of JEDEC and, specifically, Samsung.

19           97. Rambus and Samsung, through a series of licenses and other ties, formed a  
20 valuable business alliance in which Samsung supplied products based on Rambus technologies to  
21 the marketplace. Dave Mooring, president of Rambus at the time, stated that "Samsung continues  
22 to be a very strong and valuable partner for Rambus." Rambus encouraged Samsung to develop  
23 products based on Rambus's patents. As a result, Samsung became a major supplier of Rambus  
24 products. The valuable business alliance between Rambus and Samsung allowed Rambus to  
25 market its company and products based on Rambus technology that could not have otherwise been  
26 done successfully without Samsung's assistance.

27           98. Samsung reasonably relied on Rambus's assertions that Samsung was a  
28 valued business partner and was dealing with Samsung in good faith and with the intent to promote



1 the valuable business alliance between them. As a result, Samsung was misled by Rambus into  
2 promoting Rambus technology in faithful adherence to the business alliance. Samsung was further  
3 misled into believing that Rambus was dealing with Samsung honestly, in good faith, and was not  
4 secretly taking actions that would harm Samsung's business. Moreover, each of the several  
5 contracts carried with them duties of good faith and fair dealing that further lead Samsung to  
6 believe that its business ally, Rambus, would not secretly work against Samsung's interests.

7 99. As a direct and proximate result of Rambus's failure to perform its duties and  
8 Rambus's misrepresentations, Samsung has been damaged in that it has been required to pursue its  
9 legal remedies, including this suit, at great expense. Moreover, if Rambus is allowed to assert its  
10 patents in breach of its duties of disclosure and good faith to Samsung, and other JEDEC members  
11 and is successful, Samsung will be damaged in the amount sought by Rambus as license fees,  
12 which, as yet, is unknown.

13 **Eighth Affirmative Defense – Implied License**

14 100. Because of its conduct during the course of its membership in JEDEC as  
15 outlined herein, Rambus's claims of infringement of any of the patents that originate from the 1990  
16 Farmwald '898 application or the October, 1995 Ware '294 application, including but not limited to  
17 the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '5,020, '696, and '598 Patents  
18 against Samsung's SDRAM products, are barred by the doctrine of implied license.

19 101. Because of its conduct in JEDEC and/or during the course of its business  
20 alliance with Samsung as outlined herein, Rambus's claims of infringement of any of the patents  
21 that originate from the 1990 Farmwald '898 application or the October, 1995 Ware '294  
22 application, including but not limited to the '184, '097, '285, '051, '789, '897, '6,446, '281, '037,  
23 '295, '5,020, '696, and '598 Patents against Samsung's SDRAM products, are barred by the  
24 doctrine of implied license.

25 **Ninth Affirmative Defense – Marking and Limitations**

26 102. Rambus's claims for relief and prayer for damages are barred, in whole or in  
27 part, by 35 U.S.C. §§ 286 and 287.

**FIRST AMENDED COUNTERCLAIMS**

Defendant/Counterclaim Plaintiff Samsung Electronics Co., Ltd. (“SEC”) brings these counterclaims against Plaintiff/Counterclaim Defendant Rambus Inc. (“Rambus”). Defendant/ Counterclaim Plaintiff Samsung America Electronics, Inc., (“SEA”) joins in certain counterclaims as stated below.

103. SEC is a corporation organized and existing under the laws of Korea, with a principal place of business at 250, 2-Ka, Taepyung-Ro, Chung-Ku, Seoul, South Korea, 100-742. SEA is a corporation organized and existing under the laws of New Jersey, with a principal place of business at 105 Challenger Road, Ridgefield Park, New Jersey, 07660.

104. Rambus is a corporation incorporated and existing under the laws of Delaware. Rambus’s principal place of business is at 4440 El Camino Real, Los Altos, California, 94022.

**JURISDICTION AND VENUE**

105. This Court has subject matter jurisdiction over SEC’s and SEA’s patent counterclaims, which arise under the patent laws of the United States pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202. This Court has subject matter jurisdiction over SEC’s and SEA’s state law claims pursuant to 28 U.S.C. §§ 1332 and 1337, as SEC is a foreign citizen, SEA is a citizen of the State of New Jersey, Rambus is a citizen of the States of California and Delaware, and the amount in controversy exceeds \$75,000; further, some or all of these claims fall within the Court’s supplemental jurisdiction pursuant to 28 U.S.C. § 1367 because some of these claims are so related to the patent claims that they form part of the same case or controversy.

106. This Court has personal jurisdiction over Rambus, at least because Rambus filed its claims for patent infringement in this Court, in response to which these counterclaims are filed.

107. Venue is established in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400. Venue is additionally proper in this Court because Rambus has consented to the propriety of venue in this Court by filing its claim for patent infringement in this Court, in response

1 to which these counterclaims are filed. Further, Rambus is a resident of the State of California and  
2 is generally present here.

### 3 **GENERAL ALLEGATIONS**

4 108. On or about October 31, 2000, SEC and Rambus entered into an agreement  
5 entitled "SDR/DDR IC and SDR/DDR Memory Module Patent License Agreement Between  
6 Rambus Inc. and Samsung Electronics Co., Ltd." (the "SDR/DDR License").

7 109. Rambus claims to be the owner by assignment of U.S. Patent No. 6,182,184  
8 (the "'184 Patent"), which is entitled "Method of Operating a Memory Device Having a Variable  
9 Data Input Length," and which issued on January 30, 2001.

10 110. Rambus claims to be the owner by assignment of U.S. Patent No. 6,260,097  
11 (the "'097 Patent"), which is entitled "Method and Apparatus for Controlling a Synchronous  
12 Memory Device," and which issued on July 10, 2001.

13 111. Rambus claims to be the owner by assignment of U.S. Patent No. 6,266,285  
14 (the "'285 Patent"), which is entitled "Method of Operating a Memory Device Having Write  
15 Latency," and which issued on July 24, 2001.

16 112. Rambus claims to be the owner by assignment of U.S. Patent No. 6,314,051  
17 (the "'051 Patent"), which is entitled "Memory Device Having Write Latency," and which issued  
18 on November 6, 2001.

19 113. Rambus claims to be the owner by assignment of U.S. Patent No. 6,493,789  
20 (the "'789 Patent"), which is entitled "Memory Device Which Receives Write Masking and  
21 Automatic Precharge Information," and which issued on December 10, 2002.

22 114. Rambus claims to be the owner by assignment of U.S. Patent No. 6,496,897  
23 (the "'897 Patent"), which is entitled "Semiconductor Memory Device Which Receives Write  
24 Masking Information," and which issued on December 17, 2002.

25 115. Rambus claims to be the owner by assignment of U.S. Patent No. 6,546,446  
26 (the "'6,446 Patent"), which is entitled "Synchronous Memory Device Having Automatic  
27 Precharge," and which issued on April 8, 2003.

116. Rambus claims to be the owner by assignment of U.S. Patent No. 6,564,281 (the “281 Patent”), which is entitled “Synchronous Memory Device Having Automatic Precharge,” and which issued on May 13, 2003.

117. Rambus claims to be the owner by assignment of U.S. Patent No. 6,584,037 (the “037 Patent”), which is entitled “Memory Device Which Samples Data After An Amount of Time Transpires,” and which issued on June 24, 2003.

118. Rambus claims to be the owner by assignment of U.S. Patent No. 6,697,295 (the “295 Patent”), which is entitled “Memory Device Having a Programmable Register,” and which issued on February 24, 2004.

119. Rambus claims to be the owner by assignment of U.S. Patent No. 6,701,446 (the “1,446 Patent”), which is entitled “Power Control System for Synchronous Memory Device,” and which issued on March 2, 2004.

120. Rambus claims to be the owner by assignment of U.S. Patent No. 6,715,020 (the “5,020 Patent”), which is entitled “Synchronous Integrated Circuit Device,” and which issued on March 30, 2004.

121. Rambus claims to be the owner by assignment of U.S. Patent No. 6,751,696 (the “696 Patent”), which is entitled “Memory Device Having a Programmable Register,” and which issued on June 15, 2004.

122. Rambus claims to be the owner by assignment of U.S. Patent No. 6,807,598 (the “598 Patent”), which is entitled “Integrated Circuit Device Having Double Data Rate Capability,” and which issued on October 19, 2004.

123. Samsung and Rambus executed the SDR/DDR License to Rambus’s patents that allegedly cover, among other things, specific aspects of SDRAM and DDR technologies, in 2000. The SDR/DDR License required Rambus to notify Samsung if another, later license included a lower effective royalty rate; and, further to adjust Samsung’s rate to the lower effective rate. (Section 3.8). Further, the SDR/DDR License also required good faith negotiation of a renewal. (Section 8.5). Finally, there is a duty of good faith and fair dealing in the SDR/DDR License.

124. The SDR/DDR License to Rambus's patents, executed between Samsung and Rambus, further evidenced what Samsung believed to be a valuable business alliance between Samsung and Rambus in which both parties shared common business objectives.

125. Samsung's belief in Rambus's intentions towards Samsung to maintain a profitable business alliance was further bolstered by Rambus's assertions that Samsung was a valued business partner and was dealing with Samsung in good faith and with the intent to promote the valuable business alliance between them. Samsung was further misled into believing that Rambus was dealing with Samsung honestly, in good faith, and was not secretly taking actions that would harm Samsung's business.

126. Samsung, on the basis of its mutual understanding that Rambus and Samsung were valuable business partners in a profitable business alliance, did not suspect and could not have expected Rambus to behave in a way that would jeopardize that relationship nor that that its business ally, Rambus, would secretly work against Samsung's interests.

**Rambus's Aiding and Abetting Neil Steinberg's  
Breach of Fiduciary Duties Owed to Samsung, a Current Client**

127. Mr. Neil Steinberg was employed as an in-house attorney for SEC and its subsidiaries, through its SEA subsidiary, into August 1998.

128. By February 1998, Rambus had secretly engaged Mr. Steinberg to actively work for it as an attorney, providing legal advice and strategies for the enforcement of legal claims, including patent claims against DRAM manufacturers, such as Samsung, notwithstanding the fact that Rambus knew Mr. Steinberg was employed as a full-time, in-house counsel for Samsung. By June 1998, while still employed at Samsung, Mr. Steinberg had a Rambus e-mail account.

129. As an in-house attorney for Samsung, Mr. Steinberg owed Samsung a fiduciary duty of utmost good faith and fair dealing and undivided loyalty and honesty in fact.

130. Upon information and belief, at the request of Rambus, Mr. Steinberg actively worked to help Rambus plan patent prosecution strategies, including actually working on patent applications, patent enforcement strategies, document handling and retention strategies for use in litigation, and to take other measures to extract royalties from manufacturers of DRAMs,

1 including Samsung. Further, upon information and belief, Mr. Steinberg used information about  
2 Samsung's business and DRAM products in working for Rambus while he was under contractual  
3 and fiduciary duties not to disclose such information about Samsung's business or to use it contrary  
4 to Samsung's interests, regardless of whether such information was trade secret.

5 131. Rambus was aware that Mr. Steinberg was still employed as an attorney by  
6 Samsung when Rambus engaged his services. Rambus was further aware of the fiduciary capacity  
7 in which Mr. Steinberg worked for Samsung, and of the duties that Mr. Steinberg owed to  
8 Samsung. Mr. Steinberg's duties to Samsung included an obligation to disclose violations of those  
9 duties.

10 132. Mr. Steinberg remained silent and concealed from Samsung his work for  
11 Rambus in contravention of his on-going obligations with Samsung, including information about  
12 his dual employment with Samsung and Rambus.

13 133. Samsung relied on Mr. Steinberg faithfully fulfilling his duties owed to  
14 Samsung, including the obligation to disclose violations of those duties. Samsung further relied on  
15 Mr. Steinberg's silence as indication that he did not violate his duties.

16 134. Rambus was aware of Mr. Steinberg's failure to disclose his dual  
17 employment to Samsung, in contravention of his duties to Samsung. Nevertheless, Rambus  
18 secretly engaged Mr. Steinberg's services when Rambus was aware that Mr. Steinberg was still  
19 employed as an attorney by Samsung and facilitated Mr. Steinberg's silence on his dual  
20 employment and, upon information and belief, his use of information about Samsung's business  
21 and DRAM products in working for Rambus.

22 135. Rambus knew or should have known that hiring Mr. Steinberg while he was  
23 still employed by Samsung would be considered contrary to the purpose of maintaining a profitable  
24 business alliance between Rambus and Samsung. Nevertheless, Rambus concealed from Samsung  
25 that it had secretly engaged Mr. Steinberg's services when Rambus was aware that he was still  
26 employed as an attorney by Samsung and facilitated Mr. Steinberg's silence on his dual  
27 employment and, upon information and belief, his use of information about Samsung's business  
28 and DRAM products in working for Rambus.

1           136. Rambus, by its concealment, falsely represented to Samsung that it was still  
2 interested in faithfully remaining a business partner with Samsung in their valuable business  
3 alliance.

4           137. The existence of Mr. Steinberg's dual employment with Samsung and  
5 Rambus was publicly revealed for the first time during the trial of *Rambus v. Infineon*, in the U.S.  
6 District Court for the Eastern District of Virginia in 2005, and could not have been discovered by  
7 Samsung before that time.

8                           **Rambus's Aiding and Abetting Neil Steinberg's**  
9                           **Breach of Contractual Duties Owed to Samsung**

10           138. During the Spring and Summer of 1998, Mr. Steinberg, in-house counsel for  
11 Samsung, had a written employment contract with Samsung for a specific term, which permitted  
12 Mr. Steinberg to work only for Samsung during the term of that contract unless Samsung gave him  
13 permission otherwise. This contract also included specific obligations of nondisclosure and  
14 confidentiality, in addition to those imposed ethically and by law on Mr. Steinberg through his  
15 fiduciary capacity as an attorney. Specifically, the contract prohibited Mr. Steinberg from  
16 disclosing "any processes, formulas, improvements, inventions, discoveries, trade secrets, or other  
17 proprietary information" to any person without Samsung's prior written consent.

18           139. Rambus was aware that Mr. Steinberg was employed as in-house counsel for  
19 Samsung under a written employment contract for a specific term. Rambus was further aware that  
20 at the time Mr. Steinberg's employment began with Rambus, his written employment contract had  
21 not been terminated and was still in effect. Also during this time, Rambus knew that Mr.  
22 Steinberg's contract included nondisclosure clauses and restrictions on additional employment, and  
23 that Samsung had not consented to (and was unaware of) Mr. Steinberg's employment by Rambus.

24           140. Nevertheless, contrary to Mr. Steinberg's express contract provisions with  
25 Samsung, Rambus employed Mr. Steinberg to perform work on behalf of Rambus. Upon  
26 information and belief, at the request of Rambus, Mr. Steinberg actively worked to help Rambus  
27 plan patent prosecution strategies, including actually working on patent applications, patent  
28 enforcement strategies, document handling and retention strategies for use in litigation, and to take



1 other measures to extract royalties from manufacturers of DRAMs, including Samsung. Further,  
2 upon information and belief, Mr. Steinberg used information about Samsung's business and DRAM  
3 products in working for Rambus while he was under contractual and fiduciary duties not to disclose  
4 such information about Samsung's business or use it contrary to Samsung's interests, regardless of  
5 whether such information was trade secret. As a result, Rambus intentionally interfered with the  
6 Steinberg-Samsung employment contract by hiring Mr. Steinberg in February of 1998.

7 141. Mr. Steinberg was obligated to disclose violations of his contractual duties to  
8 Samsung.

9 142. Mr. Steinberg remained silent and concealed from Samsung his work for  
10 Rambus in contravention of his on-going obligations with Samsung, including the concealment of  
11 information about his dual employment with Samsung and Rambus.

12 143. Samsung relied on Mr. Steinberg faithfully fulfilling his duties owed to  
13 Samsung, including the obligation to disclose violations of those duties. Samsung further relied on  
14 Mr. Steinberg's silence as indication that he did not violate his duties.

15 144. Rambus was aware that Mr. Steinberg's duties to Samsung included the  
16 obligation to disclose violations of those duties. Nevertheless, Rambus secretly engaged Mr.  
17 Steinberg's services when Rambus was aware that Mr. Steinberg was still employed as an attorney  
18 by Samsung and facilitated Mr. Steinberg's silence on his dual employment and, upon information  
19 and belief, his use of information about Samsung's business and DRAM products in working for  
20 Rambus.

21 145. Rambus knew or should have known that its intentional interference with the  
22 Steinberg-Samsung employment contract would be considered contrary to the purpose of  
23 maintaining a profitable business alliance between Rambus and Samsung. Nevertheless, Rambus  
24 concealed from Samsung that it had secretly interfered with the Steinberg-Samsung employment  
25 contract.

26 146. Rambus, by its concealment, falsely represented to Samsung that it was still  
27 interested in faithfully remaining a business partner with Samsung in their valuable business  
28 alliance.

1           147. Rambus's intentional interference with Mr. Steinberg's contract with  
 2 Samsung was publicly revealed for the first time during the trial of *Rambus v. Infineon*, in the U.S.  
 3 District Court for the Eastern District of Virginia in 2005 and could not have been discovered by  
 4 Samsung before that time.

5                           **Rambus's Aiding and Abetting Neil Steinberg's**  
 6                           **Breach of Fiduciary Duties Owed to Samsung, a Former Client**

7           148. Mr. Steinberg ended his employment with Samsung in August 1998.

8           149. Separate from his duties when employed at Samsung, after ending his  
 9 employment with Samsung, Mr. Steinberg owed Samsung those duties owed to a former client by a  
 10 lawyer, including the duty to not disclose information about Samsung's business or to use it  
 11 contrary to Samsung's interests, regardless of whether such information was trade secret, and the  
 12 duty to obtain informed consent before representing parties adverse to Samsung in matters  
 13 substantially related to those Mr. Steinberg worked on for Samsung.

14           150. Nevertheless, upon information and belief, Mr. Steinberg continued to  
 15 actively work to help Rambus plan patent prosecution strategies, including actually working on  
 16 patent applications, patent enforcement strategies, document handling and retention strategies for  
 17 use in litigation, and to take other measures to extract royalties from manufacturers of DRAMs,  
 18 including Samsung. Further, upon information and belief, Mr. Steinberg used information about  
 19 Samsung's business and DRAM products in working for Rambus while he was under contractual  
 20 and fiduciary duties not to disclose such information about Samsung's business or to use it contrary  
 21 to Samsung's interests, regardless of whether such information was trade secret.

22           151. Mr. Steinberg worked for Rambus without first obtaining Samsung's  
 23 informed consent.

24           152. Mr. Steinberg remained silent and concealed from Samsung all the facts and  
 25 circumstances regarding his representation of Rambus in contravention of his on-going obligations  
 26 with Samsung, including, on information and belief, information about his active work to help  
 27 Rambus plan patent prosecution strategies, including actually working on patent applications,  
 28 patent enforcement strategies, document handling and retention strategies for use in litigation, and

1 to take other measures to extract royalties from manufacturers of DRAMs, including Samsung. In  
2 addition, he failed to inform Samsung of, upon information and belief, his use of information about  
3 Samsung's business and DRAM products in working for Rambus while he was under contractual  
4 and fiduciary duties not to disclose such information about Samsung's business or use it contrary to  
5 Samsung's interests, regardless of whether such information was trade secret.

6 153. Rambus was aware that Mr. Steinberg was obligated to safeguard Samsung  
7 information and to obtain informed consent from Samsung before working on certain matters  
8 adverse to Samsung. Rambus was further aware of the fiduciary capacity in which Mr. Steinberg  
9 had worked for Samsung, and of the duties that Mr. Steinberg continued to owe to Samsung.

10 154. Mr. Steinberg was obligated to disclose violations of those duties to  
11 Samsung.

12 155. Mr. Steinberg remained silent and concealed from Samsung his work for  
13 Rambus in contravention of his on-going obligations with Samsung.

14 156. Samsung relied on Mr. Steinberg faithfully fulfilling his duties owed to  
15 Samsung, including the obligation to disclose violations of those duties. Samsung further relied on  
16 Mr. Steinberg's silence as indication that he did not violate his duties.

17 157. Rambus was aware that Mr. Steinberg's duties to Samsung included the  
18 obligation to disclose violations of those duties. Nevertheless, with awareness of Mr. Steinberg's  
19 continuing fiduciary responsibilities to Samsung, Rambus secretly engaged Mr. Steinberg's  
20 services that, upon information and belief, made use of Samsung information and dealt with matters  
21 adverse to Samsung and facilitated Mr. Steinberg's silence on, upon information and belief, his use  
22 of information about Samsung's business and DRAM products in working for Rambus.

23 158. Rambus knew or should have known that allowing Mr. Steinberg to work on  
24 matters adverse to Samsung or that made use of Samsung information would be considered  
25 contrary to the purpose of maintaining a profitable business alliance between Rambus and  
26 Samsung. Nevertheless, Rambus concealed from Samsung that it had secretly engaged Mr.  
27 Steinberg's services that, upon information and belief, made use of Samsung information and dealt  
28 with matters adverse to Samsung and facilitated Mr. Steinberg's silence on, upon information and

1 belief, his use of information about Samsung's business and DRAM products in working for  
2 Rambus.

3 159. Rambus, by its concealment, falsely represented to Samsung that it was still  
4 interested in faithfully remaining a business partner with Samsung in their profitable business  
5 alliance.

6 160. The full nature of Mr. Steinberg's employment with Rambus, including work  
7 done for Rambus that was adverse to Samsung's interests or that made use of information about  
8 Samsung's business, was publicly revealed for the first time during the trial of *Rambus v. Infineon*,  
9 in the U.S. District Court for the Eastern District of Virginia in 2005, and could not have been  
10 discovered by Samsung before that time.

11 **Rambus's Anticompetitive Patent Enforcement**  
12 **Strategies and Intentional Spoliation of Evidence**

13 161. Rambus was organized to exploit the invention claimed by Mark Horowitz  
14 and Michael Farmwald of a narrow, multiplexed bus, and a packet-based memory interface.

15 162. In 1990, Rambus filed an application for a patent on the Horowitz-Farmwald  
16 claimed invention(s). Rambus believed that this application fully and comprehensively described  
17 and claimed any and all inventions made by Horowitz and Farmwald.

18 163. Rambus implemented the Horowitz-Farmwald ideas in a specific interface  
19 which it called Rambus DRAM, or "RDRAM."

20 164. Rambus's original and preferred objective was to establish RDRAM as the  
21 commodity DRAM interface.

22 165. To this end, Rambus began as early as 1991 to actively market RDRAM to  
23 the DRAM industry including DRAM manufacturers, PC enablers including Intel, and industrial  
24 DRAM users.

25 166. From the beginning of its RDRAM marketing efforts, Rambus licensed and  
26 offered to license the whole of its interface technology, including any future patents. Prospective  
27 licensees reasonably understood that they were bargaining for a license relating to any existing or  
28 future Rambus patents.

1           167. In marketing RDRAM to the DRAM industry, Rambus described the  
2 Rambus interface extensively. Such descriptions invariably emphasized the unique and allegedly  
3 “revolutionary” characteristics of the Horowitz-Farmwald ideas, namely the single narrow and  
4 multiplexed bus and the packet based communication protocol.

5           168. In marketing RDRAM to the DRAM industry, Rambus frequently and  
6 typically contrasted RDRAM with competitive interfaces, including the conventional DRAM  
7 interfaces then in common use, and with developing DRAM interfaces, including the SDRAM  
8 interfaces being standardized at JEDEC and the SyncLink interface.

9           169. During the 1990’s, Rambus participated actively in industry meetings on  
10 standards for SDRAMs and DDR DRAMs at the Joint Electron Device Engineering Council  
11 (“JEDEC”). Rambus improperly used information it obtained as a result of its membership in  
12 JEDEC to secure additional patents and claims. Rambus’s use of this information was in violation  
13 of policies applicable to all JEDEC members. Further, Rambus’s failure to disclose to other  
14 members of JEDEC that it had taken information from JEDEC to craft its patent claims, only to  
15 seek to enforce its claims against JEDEC-compliant products many years after JEDEC members  
16 had invested heavily in the technology without notice of Rambus’s conduct estops Rambus from  
17 enforcing its patents against JEDEC members.

18           170. By February 1998, Rambus decided to litigate in order to license its  
19 purported SDRAM and DDR SDRAM technology to the DRAM industry, as a means of  
20 eliminating or disadvantaging such alternatives to Rambus technology. By the Spring of 1998,  
21 before it commenced its litigation strategy, Rambus was actively seeking to improve its SDRAM  
22 and DDR SDRAM patent portfolio.

23           171. Central to this litigation strategy was the repeated, company-wide,  
24 destruction of relevant documents. Rambus intentionally destroyed millions of pages of documents  
25 that it knew would be relevant to its lawsuits against the users of competing PC DRAM interface  
26 technologies, including this lawsuit against Samsung and others. This strategy also included  
27 recruiting Samsung employees to work for Rambus as employees or attorneys.

1           172. During meetings held in February 1998, Rambus and its attorneys developed  
2 a multi-step litigation strategy against DRAM manufacturers that included making Rambus “battle  
3 ready” prior to litigation. The strategy involved, among other things, destroying millions of  
4 relevant documents and attempting to mask that wanton destruction under the guise of a document  
5 “retention” policy.

6           173. At the time this strategy was hatched, Rambus expressly contemplated suing  
7 DRAM manufacturers on a number of theories, including breach of contract against those  
8 manufacturers who were RDRAM licensees, patent infringement against those who relied on  
9 competing PC DRAM interface technology, and an action for collusion and/or unfair competition  
10 against the DRAM suppliers.

11           174. Rambus’s stated goals for the third quarter of 1998 included implementing  
12 its document destruction action plan. This plan included a staff training event and a “summer  
13 housecleaning.”

14           175. In September 1998, Rambus commenced its first known “shred party.”  
15 Rambus hired a shredding service to come to Rambus’s corporate headquarters in Mountain View,  
16 California on September 3, 1998. In accordance with Rambus’s litigation strategy, Rambus  
17 distributed burlap bags to all of its employees a week in advance of the shredding to enable those  
18 employees to identify and collect documents to be shredded. During this first shred party, Rambus  
19 began to “cleanse” its patent prosecution and related files by destroying documents related to, at  
20 least, patents that Rambus was planning to enforce against the DRAM industry. The destroyed  
21 documents related to, among others, patents to which other Rambus patents claim priority,  
22 including patents that issued after the first shred party. Following “Shred Day,” all Rambus  
23 employees were invited to a party at 5:00 p.m. on September 3, 1998 to celebrate completion of the  
24 document destruction.

25           176. All told, Rambus employees shredded thousands of pages of documents on  
26 Shred Day 1998. In fact, so many documents were bagged for shredding that the shredding truck  
27 was filled to capacity and had to return another day to finish the job. By the end of the shredding,  
28

1 Rambus had disposed of over 185 burlap sacks full of documents, and 60 banker's boxes full of  
2 documents.

3 177. During April 1999, Rambus had its patent attorneys "cleanse" their files.

4 178. In 1999, Rambus added further detail to its anticompetitive strategy.  
5 Rambus's 1999 litigation strategy expressly anticipated and planned for a potential "Nuclear  
6 Winter Scenario" in the event Intel was to decide to move away from RDRAM to an alternative  
7 technology, such as DDR SDRAM, SDRAM, or some other PC DRAM interface technology that  
8 Rambus feared might have been created by the DRAM manufacturers. Rambus's planned response  
9 was to discipline Intel "by cutting off" Intel's access to alternative technology, thus "threatening  
10 Intel's current and future microprocessor based products."

11 179. As a central part of its litigation plan, Rambus contemplated filing  
12 complaints against various DRAM manufacturers. The claims Rambus expressly contemplated in  
13 1999 included: (i) patent infringement claims against users of alternative technologies to RDRAM  
14 technology; (ii) breach of contract claims "based on cancellation of RDRAM production;" (iii)  
15 fraud based on a theory that the DRAM companies never intended to manufacture RDRAM, and  
16 (iv) the making of statements about Rambus that the DRAM companies knew to be untrue; (v)  
17 unfair competition; (vi) antitrust violations; and (vii) any other claims that might be brought based  
18 on a theory that the DRAM manufacturers set out to destroy Rambus through their actions. These  
19 claims planned in 1999 include the very claims Rambus has alleged in its Complaint in this action.

20 180. In furtherance of Rambus's "nuclear winter" litigation scenario, Rambus set  
21 a series of "IP Goals" for 1999. For the third quarter of 1999, the "Licensing/Litigation Readiness  
22 Goals" included the following verbatim bullet-point items:

23 "E. Prepare litigation strategy against 1 of 3 manufacturers (re: 3D)

24 "F. Ready for Litigation with 30 days notice

25 "G. Organize 1999 shredding party at Rambus"

26 181. During August 1999, Rambus commenced its second known "shred party."  
27 During this second shred party, Rambus again "cleansed" its patent prosecution and related files by  
28 destroying additional documents related to, at least, patents that Rambus was planning to enforce or



1 was litigating against the DRAM industry. The destroyed documents related to, among others,  
2 patents to which other Rambus patents claim priority, including patents that issued after the second  
3 shred party. All told, an additional 150 burlap bags filled with documents were destroyed - the  
4 equivalent of 188 banker's boxes or almost a half-a-million pages.

5 182. During the Spring of 2000, Rambus was notified by its outside counsel that it  
6 had a duty to preserve all documents related to its patents and/or the litigation against DRAM  
7 manufacturers.

8 183. During June 2000 and after its litigation with Hitachi settled, Rambus again  
9 asked its patent attorneys to destroy documents.

10 184. During December 2000, while Rambus was actively litigating against  
11 numerous companies on antitrust, fraud, and patent claims, Rambus commenced its third known  
12 "shred party." During this third shred party, Rambus again "cleansed" its patent prosecution and  
13 related files by destroying additional documents related to, at least, patents that Rambus was  
14 enforcing and litigating against the DRAM industry. The destroyed documents related to, among  
15 others, patents to which other Rambus patents claim priority, including patents that issued after the  
16 third shred party. Shred Day 2000 turned out to be the largest Shred Day of them all. All told,  
17 Rambus destroyed over 575 banker's boxes full of documents - one-and-a-half million pages - on  
18 Shred Day 2000. Although Rambus was then litigating numerous actions, Rambus employees were  
19 given no instructions to retain documents related to the litigations. To ensure that its strategy to  
20 dispose of critical evidence worked, Rambus did not maintain any record of which documents it  
21 destroyed.

22 185. Samsung could not have discovered Rambus's destruction of documents  
23 until it was revealed publicly in a trial in *Rambus v. Infineon* in the Eastern District of Virginia in  
24 February 2005.

25 186. Rambus's document destruction covered all major categories of documents  
26 generated in the ordinary course of Rambus's business, such as e-mail communications, notes of  
27 contract negotiations, and drafts and other *information* useful in ascertaining the truth and in testing  
28

1 the validity of the positions taken by Rambus in this and its other lawsuits. The shredding included  
2 the destruction of evidence that related to, among other things:

- 3 a. Rambus's prosecution of its patents,
- 4 b. the relationship of Rambus's patent applications and pending claims to  
5 industry standards,
- 6 c. presentations to Rambus's board of directors regarding intellectual property,
- 7 d. potentially damaging or invalidating prior art related to patents asserted  
8 against DRAM manufacturers, including Samsung, as part of Rambus's litigation strategy,
- 9 e. Rambus's draft license agreements and documents related to the negotiations  
10 for such license agreements, and
- 11 f. on information and belief; other documents supporting Samsung's positions  
12 and affirmative defenses in this case, and the facts alleged by Samsung in its Counterclaims.

13 187. Rambus's wholesale destruction of these and other categories of documents  
14 was intended to and has prejudiced Samsung in this lawsuit, as well as other DRAM manufacturers  
15 and the end-users of DRAM technology.

16 188. Rambus's vice president of engineering testified under oath that he was  
17 ordered to purge his files at least in part because "such materials are discoverable in subsequent  
18 litigations." A lawyer in Rambus's in-house legal department testified that one of the understood  
19 reasons behind the "Shred Days" was that "some of that stuff is discoverable."

20 189. While attempting to make itself "battle ready," Rambus launched its  
21 litigation campaign against the DRAM manufacturers, with numerous patent suits against multiple  
22 DRAM manufacturers in various U.S. federal courts, as well as patent courts in Italy, German,  
23 France, and the United Kingdom.

24 190. In the course of its lawsuits against the DRAM manufacturers, it engaged in  
25 further litigation misconduct, including permitting its executives, attorneys and employees to offer  
26 false or misleading testimony in multiple depositions about Rambus's destruction of documents. In  
27 one such action brought by Rambus against Infineon in the Eastern District of Virginia, the  
28 Honorable Robert Payne found Rambus's spoliation and perjury so egregious that he dismissed

1 summarily Rambus's claims against Infineon. Having been presented with evidence of Rambus's  
2 (and its lawyers') misconduct, Judge Payne could only remark "Why are all these people lying?"  
3 Judge Payne felt compelled to warn all involved that their destruction of evidence could result in  
4 jail terms.

5 191. Rambus knew or should have known that its actions in implementing its  
6 strategy to exploit its anticompetitive agreements and litigation scheme against the DRAM  
7 manufacturers, including Samsung, would be considered contrary to the purpose of maintaining a  
8 profitable business alliance between Rambus and Samsung. Nevertheless, Rambus engaged in such  
9 actions.

10 192. Rambus, by its concealment, falsely represented to Samsung that it was still  
11 interested in faithfully remaining a business partner with Samsung in their profitable business  
12 alliance.

13 193. Rambus's destruction of documents in anticipation of litigation with  
14 Samsung, its unfair employment of Neil Steinberg, and the full nature and extent of the unfair  
15 conduct by Rambus, were publicly revealed for the first time during the trial of *Rambus v. Infineon*,  
16 in the U. S. District Court for the Eastern District of Virginia in 2005, and could not have been  
17 discovered by Samsung before that time.

18 194. Rambus continues today its strategy to exploit its anticompetitive agreements  
19 and litigation scheme in an attempt to have "[o]ur standards dominate the DRAM interface market"  
20 and "[c]ollect royalties on all DRAM and controllers forever."

21 **COUNT I (BREACH OF SECTION 3.8 OF THE SDR/DDR LICENSE)**

22 195. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and  
23 103-194 above as though fully set forth herein.

24 196. Section 3.8 of the SDR/DDR License requires Rambus to notify SEC of any  
25 lower effective royalty rate paid by any third party for specific products defined in the SDR/DDR  
26 License.

27 197. Rambus and Infineon entered into a license agreement during the Spring of  
28 2005 (the "Rambus/Infineon License"). On information and belief, the Rambus/Infineon License

1 provided for an effective royalty rate that was lower than that being paid by SEC under the  
2 SDR/DDR License.

3 198. Rambus failed to notify SEC of the lower effective royalty rate agreed to be  
4 paid by Infineon as provided for in the Rambus/Infineon License.

5 199. Rambus breached Section 3.8 of the SDR/DDR License Agreement by  
6 failing to notify SEC of the lower effective royalty rate provided for in the Rambus/Infineon  
7 License.

8 200. Section 3.8 of the SDR/DDR License required Rambus to adjust the royalty  
9 rate paid by SEC to match any lower effective royalty rate paid by a third party.

10 201. Rambus failed to adjust SEC's royalty rate following the execution of the  
11 Rambus/Infineon License.

12 202. Rambus breached Section 3.8 of the SDR/DDR License Agreement by  
13 failing to adjust SEC's royalty rate based upon the lower effective royalty rate provided for in the  
14 Rambus/Infineon License.

15 203. All conditions precedent have been met.

16 204. SEC has suffered damages as a result of the breach by Rambus of Section 3.8  
17 of the SDR/DDR License.

18 **COUNT II (BREACH OF SECTION 8.5 OF THE SDR/DDR LICENSE)**

19 205. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and  
20 103-194 above as though fully set forth herein.

21 206. Section 8.5 of the SDR/DDR License provides that SEC and Rambus will  
22 negotiate an extension or renewal of the SDR/DDR License in good faith.

23 207. Rambus failed to provide notice of certain terms of the Rambus/Infineon  
24 License as required under Section 3.8 of the SDR/DDR License, thereby precluding good faith  
25 negotiations for the extension or renewal of the SDR/DDR License.

26 208. Rambus breached Section 8.5 of the SDR/DDR License by failing to provide  
27 SEC with notice of those certain terms of the Rambus/Infineon License as required under Section  
28

3.8 of the SDR/DDR License. By withholding notice of the terms, Rambus did not and could not negotiate a new license agreement with SEC in good faith.

209. All conditions precedent have been met.

210. SEC has suffered damages as a result of the breach by Rambus of Section 8.5 of the SDR/DDR License.

**COUNT III (BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING  
OF SECTIONS 3.8 AND 8.5 OF THE SDR/DDR LICENSE)**

211. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and 103-194 above as though fully set forth herein.

212. Under Section 9.1, the SDR/DDR License is to be governed by, and interpreted in accordance with, U.S. federal law and California law.

213. Under California law, Section 3.8 of the SDR/DDR License includes a duty of good faith and fair dealing owed by Rambus to SEC to inform SEC of the lower royalty rate provided for in the Rambus/Infineon License and to adjust Samsung's rate to the lower rate.

214. Rambus failed to inform SEC of the lower effective royalty rate provided for in the Rambus/Infineon License.

215. Rambus breached the duty of good faith and fair dealing of the SDR/DDR License by failing to inform SEC of the lower effective royalty rate provided for in the Rambus/Infineon License.

216. Under California law, the duty of good faith and fair dealing required Rambus to adjust the royalty rate paid by SEC to match any lower effective royalty rate paid by a third party.

217. Rambus failed to adjust the royalty rate paid by SEC to match the lower effective royalty rate provided for in the Rambus/Infineon License.

218. Rambus breached the duty of good faith and fair dealing by failing to adjust the royalty rate paid by SEC to match the lower effective royalty rate provided for in the Rambus/Infineon License.



1           228. Mr. Steinberg's failure to disclose his breach of his fiduciary duty to  
2 Samsung further violated his fiduciary duty toward Samsung.

3           229. Samsung was entitled to reasonably rely on Mr. Steinberg's silence because  
4 of its expectation that Mr. Steinberg would faithfully fulfill his fiduciary obligations.

5           230. Because Samsung was misled by Mr. Steinberg's misrepresentation and  
6 concealment of facts surrounding his dual employment by Samsung and Rambus, it did not  
7 discover, nor was it put on notice to investigate, Mr. Steinberg's breach of fiduciary duties he owed  
8 to Samsung as a current client.

9           231. Rambus knew that Mr. Steinberg was still employed as an attorney by  
10 Samsung when it engaged his services. It further knew that Samsung had not given permission for  
11 Mr. Steinberg to dually represent Samsung and Rambus. Rambus also knew of the fiduciary  
12 capacity in which Mr. Steinberg worked for Samsung and the duties that Mr. Steinberg owed to  
13 Samsung as a result.

14           232. By engaging Mr. Steinberg to represent Rambus knowing Mr. Steinberg  
15 owed fiduciary duties to Samsung as a current client, Rambus aided and abetted Mr. Steinberg in  
16 breaching those fiduciary duties.

17           233. Rambus also knew that Mr. Steinberg had a duty to disclose to Samsung, a  
18 current client, of any breach of his fiduciary duty, and that Mr. Steinberg in fact failed to carry out  
19 this duty . As a result, Rambus facilitated Mr. Steinberg's failure of his obligation to Samsung by  
20 secretly engaging Mr. Steinberg's services when it was aware that Mr. Steinberg was still employed  
21 as an attorney by Samsung.

22           234. Rambus knew that hiring Mr. Steinberg while he was still employed by  
23 Samsung would be considered contrary to the purpose of maintaining a profitable business alliance  
24 between Rambus and Samsung. Nevertheless, Rambus concealed from Samsung that it had  
25 secretly engaged Mr. Steinberg's services when Rambus was aware that Mr. Steinberg was still  
26 employed as an attorney by Samsung and facilitated Mr. Steinberg's silence on his dual  
27 employment and, upon information and belief, his use of information about Samsung's business  
28 and DRAM products in working for Rambus.



1           235. Rambus, by its concealment, falsely represented to Samsung that it was still  
2 interested in faithfully remaining a business partner with Samsung in their profitable business  
3 alliance.

4           236. SEC and SEA were harmed by Rambus's aiding and abetting Mr.  
5 Steinberg's breach of his fiduciary duty to Samsung.

6                   **Applicable Statute of Limitations Tolled by Discovery Rule**

7           237. As a result of Mr. Steinberg's and/or Rambus's concealment of his dual  
8 representation of Samsung and Rambus, Samsung did not discover and could not have discovered  
9 the circumstances giving rise to a breach of Mr. Steinberg's fiduciary duties owed to Samsung  
10 while working for them, nor of Rambus's role in Mr. Steinberg's breach of his fiduciary duties,  
11 until it was revealed for the first time during the trial of *Rambus v. Infineon*, in the U. S. District  
12 Court for the Eastern District of Virginia in 2005. Once Rambus's employment of Neil Steinberg  
13 while an employee of Samsung was revealed to Samsung, Samsung was able to diligently  
14 investigate and pursue its claims against Rambus based on such conduct.

15                   **Applicable Statute of Limitations Tolled by Doctrine of Equitable Tolling**

16           238. Furthermore, Mr. Steinberg's misrepresentations to Samsung while working  
17 for Samsung helped conceal material facts that prevented Samsung from knowing or discovering  
18 the nature and extent of the injury suffered due to Mr. Steinberg's dual representation. Mr.  
19 Steinberg's concealment of his dual representation when he was under a duty to disclose those facts  
20 prevented Samsung from discovering that a breach of Mr. Steinberg's fiduciary duty had occurred,  
21 as Samsung was not otherwise on notice that Mr. Steinberg had breached his fiduciary duty by his  
22 dual representation of Samsung and Rambus.

23           239. Rambus's concealment of its hiring of Mr. Steinberg while he was still an  
24 employee of Samsung and its affirmative misrepresentations to Samsung that it was still a faithful  
25 business partner to Samsung also helped conceal material facts that prevented Samsung from  
26 knowing or discovering the nature and extent of the injury suffered due to Mr. Steinberg's dual  
27 representation. Rambus's concealment of his dual representation prevented Samsung from  
28 discovering that a breach of Mr. Steinberg's fiduciary duty had occurred, as Samsung was not

1 otherwise on notice that Mr. Steinberg had breached his fiduciary duty by his dual representation of  
2 Samsung and Rambus.

3 240. As a result, the misrepresentation and nondisclosure practiced by Mr.  
4 Steinberg and Rambus on Samsung, and the role Rambus played in Mr. Steinberg's  
5 misrepresentation and nondisclosure, was not discovered until Mr. Steinberg's dual employment  
6 was revealed for the first time during the trial of *Rambus v. Infineon*, in the U. S. District Court for  
7 the Eastern District of Virginia in 2005. Once Rambus's employment of Neil Steinberg was  
8 discovered by Samsung in 2005, Samsung was able to diligently investigate and pursue its claims  
9 against Rambus based on such conduct.

10 **COUNT V (AIDING AND ABETTING BREACH OF FIDUCIARY DUTY TO A FORMER**  
11 **CLIENT)**

12 241. SEC and SEA reallege and incorporate by reference Paragraphs 1-28 and  
13 103-194 above as though fully set forth herein.

14 242. As a former in-house attorney for Samsung, Mr. Steinberg owed Samsung  
15 those duties due to a former client, including the duty to not disclose information about Samsung's  
16 business or to use it contrary to Samsung's interests, regardless of whether such information was  
17 trade secret, and the duty to obtain informed consent before representing parties adverse to  
18 Samsung in matters substantially related to those Mr. Steinberg worked on for Samsung.

19 243. Despite these obligations to Samsung, Mr. Steinberg, upon information and  
20 belief, actively worked to help Rambus plan patent prosecution strategies, including actually  
21 working on patent applications, patent enforcement strategies, document handling and retention  
22 strategies for use in litigation, and to take other measures to extract royalties from manufacturers of  
23 DRAMs, including Samsung. Mr. Steinberg did this without first obtaining informed consent from  
24 Samsung. Upon information and belief, Mr. Steinberg also used information about Samsung's  
25 business and DRAM products while working for Rambus at a time he was under a duty not to  
26 disclose such information about Samsung's business or to use it contrary to Samsung's interests,  
27 regardless of whether such information was trade secret.

1           244. Mr. Steinberg further violated his fiduciary duty to Samsung by failing to  
2 disclose to Samsung his work for Rambus that was contrary to Samsung's interests or his use of  
3 information obtained while an attorney for Samsung.

4           245. Mr. Steinberg concealed from Samsung his work for Rambus that was  
5 adverse to Samsung and made use of Samsung information. Samsung, therefore, had no notice of  
6 any deception on Mr. Steinberg's part and therefore had no reason to investigate whether Mr.  
7 Steinberg's work for Rambus was adverse to Samsung or made use of Samsung information.

8           246. Samsung was entitled to reasonably rely on Mr. Steinberg's silence because  
9 of its expectation that Mr. Steinberg would obtain informed consent before working on matters  
10 adverse to Samsung and would faithfully safeguard Samsung's information.

11           247. Because Samsung was misled by Mr. Steinberg's misrepresentation and  
12 concealment of facts regarding the full nature of the work he performed for Rambus, it did not  
13 discover, nor was it put on notice to investigate, Mr. Steinberg's breach of fiduciary duties he owed  
14 to Samsung as a former client.

15           248. Rambus knew that Mr. Steinberg was employed as an attorney by Samsung.  
16 It further knew that Samsung had not given permission for Mr. Steinberg to work on matters  
17 adverse to Samsung or to disclose Samsung information. Rambus also knew of the fiduciary  
18 capacity in which Mr. Steinberg worked for Samsung and the duties that Mr. Steinberg continued to  
19 owe Samsung as a result of his former representation.

20           249. By engaging Mr. Steinberg to represent Rambus knowing Mr. Steinberg  
21 owed fiduciary duties to Samsung as a former client, Rambus aided and abetted Mr. Steinberg in  
22 breaching those fiduciary duties.

23           250. Rambus also knew that Mr. Steinberg had a duty to disclose to Samsung, a  
24 former client, of any breach of his fiduciary duty, and that Mr. Steinberg in fact failed to carry out  
25 this duty . As a result, Rambus facilitated Mr. Steinberg's failure of his obligation to Samsung by  
26 secretly engaging Mr. Steinberg's services for matters adverse to Samsung and that made use of  
27 confidential Samsung information.

1           251. Rambus knew that using Mr. Steinberg's services on matters adverse to  
2 Samsung or that made use of Samsung information would be considered contrary to the purpose of  
3 maintaining a profitable business alliance between Rambus and Samsung. Nevertheless, Rambus  
4 concealed from Samsung that it had secretly engaged Mr. Steinberg's services on matters adverse  
5 to Samsung or that, on information and belief, made use of Samsung information and facilitated  
6 Mr. Steinberg's silence on his work for Rambus on matters adverse to Samsung and, upon  
7 information and belief, his use of information about Samsung's business and DRAM products in  
8 working for Rambus.

9           252. Rambus, by its concealment, falsely represented to Samsung that it was still  
10 interested in faithfully remaining a business partner with Samsung in their profitable business  
11 alliance.

12           253. SEC and SEA were harmed by Rambus's aiding and abetting Mr.  
13 Steinberg's breach of his fiduciary duty to Samsung.

14           **Applicable Statute of Limitations Tolled by Discovery Rule**

15           254. As a result of Mr. Steinberg's and/or Rambus's failure to disclose the full  
16 nature of his work for Rambus in violation of his continuing obligations to Samsung, Samsung did  
17 not discover and could not have discovered the circumstances giving rise to a breach of Mr.  
18 Steinberg's fiduciary duties owed to Samsung as a former client, nor of Rambus's role in Mr.  
19 Steinberg's breach of his fiduciary duties, until it was revealed for the first time during the trial of  
20 *Rambus v. Infineon*, in the U. S. District Court for the Eastern District of Virginia in 2005. Once  
21 the full scope of Rambus's employment of Mr. Steinberg was revealed to Samsung, Samsung was  
22 able to diligently investigate and pursue its claims against Rambus based on such conduct.

23           **Applicable Statute of Limitations Tolled by Doctrine of Equitable Tolling**

24           255. Furthermore, Mr. Steinberg's misrepresentations to Samsung helped conceal  
25 material facts that prevented Samsung from knowing or discovering the nature and extent of the  
26 injury suffered due to Mr. Steinberg's employment by Rambus. Mr. Steinberg's failure to disclose  
27 the nature of his employment by Rambus when he was under a duty to do so prevented Samsung  
28 from discovering that a breach of Mr. Steinberg's fiduciary duty had occurred, as Samsung was not

1 otherwise under notice that Mr. Steinberg had breached his fiduciary duty by working for Rambus  
2 on matters adverse to Samsung or that made use of Samsung information.

3 256. Rambus's concealment of its use of Mr. Steinberg's services on matters  
4 adverse to Samsung or that, upon information and belief, made use of Samsung information and its  
5 affirmative misrepresentations to Samsung that it was still a faithful business partner to Samsung  
6 also helped conceal material facts that prevented Samsung from knowing or discovering the nature  
7 and extent of the injury suffered due to Mr. Steinberg's work for Rambus. Rambus's concealment  
8 of his work for it prevented Samsung from discovering that a breach of Mr. Steinberg's fiduciary  
9 duty had occurred, as Samsung was not otherwise on notice that Mr. Steinberg had breached his  
10 fiduciary duty by his work for Rambus.

11 257. As a result, the misrepresentation and nondisclosure practiced by Mr.  
12 Steinberg and Rambus on Samsung, and the role Rambus played in Mr. Steinberg's  
13 misrepresentation and nondisclosure, was not revealed until the full scope of Mr. Steinberg's  
14 employment for Rambus was revealed for the first time during the trial of *Rambus v. Infineon*, in  
15 the U. S. District Court for the Eastern District of Virginia in 2005. Once the full scope of  
16 Rambus's employment of Neil Steinberg was discovered in 2005, Samsung was able to diligently  
17 investigate and pursue its claims against Rambus based on such conduct.

18 **COUNT VI (INTENTIONAL INTERFERENCE WITH CONTRACT)**

19 258. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and  
20 103-194 above as though fully restated herein.

21 259. Rambus was aware that Mr. Steinberg was employed as in-house counsel for  
22 Samsung and under a written employment contract for a specific term. Rambus was further aware  
23 that at the time Mr. Steinberg's employment began with Rambus, his written employment contract  
24 had not been terminated and was still in effect. Also during this time, Rambus knew that Mr.  
25 Steinberg's contract included nondisclosure clauses and restrictions on additional employment.

26 260. Despite these contractual duties, Mr. Steinberg, upon information and belief,  
27 actively worked to help Rambus plan patent prosecution strategies, including actually working on  
28 patent applications, patent enforcement strategies, document handling and retention strategies for

1 use in litigation, and to take other measures to extract royalties from manufacturers of DRAMs,  
2 including Samsung. Upon information and belief, while employed at Samsung, Mr. Steinberg also  
3 used information about Samsung's business and DRAM products in connection with his work for  
4 Rambus, despite the fact that he was under contractual and fiduciary duties not to disclose such  
5 information about Samsung's business or use it contrary to Samsung's interests, regardless of  
6 whether such information was trade secret. Mr. Steinberg's work for Rambus, therefore, was in  
7 breach of his employment contract with Rambus.

8           261. Because Rambus knew of Mr. Steinberg's employment contract and his  
9 subsequent breach of that contract by performing services on behalf of Rambus, Rambus  
10 intentionally interfered with the Steinberg-Samsung employment contract when it hired Mr.  
11 Steinberg in February of 1998.

12           262. Mr. Steinberg further violated his contractual duty to Samsung by failing to  
13 disclose the full nature and duration of his work for Rambus.

14           263. Mr. Steinberg and Rambus concealed from Samsung Mr. Steinberg's work  
15 for Rambus that was contrary to Samsung's interests and that made use of Samsung information.  
16 Samsung had no notice of any breach of the employment contract by Mr. Steinberg's and therefore  
17 did not discover and had no reason to investigate whether Mr. Steinberg worked for Rambus while  
18 employed as an attorney by Samsung or was working for Rambus contrary to Samsung's interests  
19 and with Samsung information.

20           264. Samsung was entitled to reasonably rely on Mr. Steinberg's silence regarding  
21 Rambus's interference with his employment contract with Samsung because of its expectation that  
22 Mr. Steinberg would faithfully fulfill both his fiduciary and contractual obligations.

23           265. Because Samsung was misled by Mr. Steinberg's misrepresentation and  
24 concealment of facts regarding the full nature of the work he performed for Rambus as well as the  
25 time period during which he worked for Rambus, it did not discover, nor was it put on notice to  
26 investigate, Mr. Steinberg's breach of contractual and fiduciary duties he owed to Samsung.

27           266. Rambus knew of Mr. Steinberg's contractual obligations to Samsung,  
28 including his obligations to disclose the full nature and duration of his employment by Rambus. By

1 secretly engaging Mr. Steinberg's services in contravention of these duties, therefore, Rambus  
2 intentionally interfered with Mr. Steinberg's employment contract with Samsung and facilitated  
3 Mr. Steinberg's violation of those duties.

4           267. Rambus knew or should have known that the nature and duration of Mr.  
5 Steinberg's employment by Rambus would be considered contrary to the purpose of maintaining a  
6 profitable business alliance between Rambus and Samsung. Nevertheless, Rambus concealed from  
7 Samsung that it had secretly engaged Mr. Steinberg's services and facilitated Mr. Steinberg's  
8 silence on the full nature and duration of his work for Rambus.

9           268. Rambus, by its concealment, falsely represented to Samsung that it was still  
10 interested in faithfully remaining a business partner with Samsung in their profitable business  
11 alliance.

12           269. SEC and SEA were harmed by Rambus's intentional interference with Mr.  
13 Steinberg's employment contract.

14           **Applicable Statute of Limitations Tolloed by Discovery Rule**

15           270. As a result of the concealment of Mr. Steinberg's dual representation and of  
16 the full nature of the work he performed for Rambus, Samsung did not discover and could not have  
17 discovered the circumstances giving rise to Rambus's interference of Mr. Steinberg's employment  
18 contract with Samsung until it was revealed for the first time during the trial of *Rambus v. Infineon*,  
19 in the U. S. District Court for the Eastern District of Virginia in 2005. Once the full nature and  
20 duration of Rambus's employment of Mr. Steinberg was revealed to Samsung, Samsung was able  
21 to diligently investigate and pursue its claims against Rambus based on such conduct.

22           **Applicable Statute of Limitations Tolloed by Doctrine of Equitable Tolling**

23           271. Furthermore, Mr. Steinberg's false representations to Samsung helped  
24 conceal material facts that prevented Samsung from knowing or discovering the nature and extent  
25 of the injury suffered due to Mr. Steinberg's employment by Rambus. Mr. Steinberg's  
26 concealment of the nature and duration of his employment by Rambus when he was under a duty to  
27 do so prevented Samsung from determining that Rambus had intentionally interfered with Mr.  
28 Steinberg's employment contract with Samsung, as Samsung was not otherwise under notice that



1 Mr. Steinberg had breached his employment contract by working for Rambus while employed by  
 2 Samsung and also by working for Rambus on matters adverse to Samsung or that made use of  
 3 Samsung information.

4 272. Rambus's concealment of the full nature and duration of Mr. Steinberg's  
 5 employment by Rambus and its affirmative misrepresentations to Samsung that it was still a  
 6 faithful business partner to Samsung also helped conceal material facts that prevented Samsung  
 7 from knowing or discovering the nature and extent of the injury suffered due to Mr. Steinberg's  
 8 work for Rambus. Rambus's concealment of his work for it prevented Samsung from discovering  
 9 that a breach of Mr. Steinberg's fiduciary duty had occurred, as Samsung was not otherwise on  
 10 notice that Mr. Steinberg had breached his fiduciary duty by his work for Rambus.

11 273. As a result, the misrepresentation and nondisclosure practiced by Mr.  
 12 Steinberg and Rambus on Samsung was not disclosed until the full scope and duration of Mr.  
 13 Steinberg's employment for Rambus was revealed for the first time during the trial of *Rambus v.*  
 14 *Infinion*, in the U. S. District Court for the Eastern District of Virginia in 2005. Once the full scope  
 15 and duration of Rambus's employment of Neil Steinberg was disclosed to Samsung in 2005,  
 16 Samsung was able to diligently investigate and pursue its claims against Rambus based on such  
 17 conduct.

18 **COUNT VII (VIOLATION OF CALIFORNIA BUS. & PROF. CODE SECTION 17,200)**

19 274. SEC and SEA reallege and incorporate by reference Paragraphs 1-28 and  
 20 103-194 above as though fully restated herein.

21 275. The herein-described conduct of Rambus, including its hiring of Mr.  
 22 Steinberg while still employed at Samsung, the "shred parties," and the persistent pursuit of patent  
 23 claims beyond its original disclosures is an unlawful business practice and constitutes unfair and  
 24 anticompetitive conduct toward Samsung, the DRAM industry, and the consuming public, in  
 25 violation of California Business and Professions Code § 17200 *et. seq.*

26 276. Rambus has engaged in at least the following unlawful, unfair, and  
 27 anticompetitive business practices, and deceptive conduct:  
 28

1           276.1 Misdemeanor spoliation of evidence in violation of California Penal Code §  
2 135 as evident by the following facts: Rambus willfully destroyed or concealed documentary  
3 evidence to be produced in litigation against DRAM manufacturers with the intent to prevent it  
4 from being produced, as fully described herein;

5           276.2 Aiding and abetting the breach of fiduciary duty to a current client as  
6 evidenced by the following facts: Rambus knew that Mr. Steinberg was still employed as an  
7 attorney by Samsung when it engaged his services. It further knew that Samsung had not given  
8 permission for Mr. Steinberg to dually represent Samsung and Rambus. Rambus also knew of the  
9 fiduciary capacity in which Mr. Steinberg worked for Samsung and the duties that Mr. Steinberg  
10 owed to Samsung as a result. By engaging Mr. Steinberg to represent Rambus knowing Mr.  
11 Steinberg owed fiduciary duties to Samsung as a current client, therefore, Rambus aided and  
12 abetted Mr. Steinberg in breaching those fiduciary duties, as fully described herein.

13           276.3 Aiding and abetting the breach of fiduciary duty to a former client as  
14 evidenced by the following facts: Rambus knew that Mr. Steinberg was employed as an attorney  
15 by Samsung. It further knew that Samsung had not given permission for Mr. Steinberg to work on  
16 matters adverse to Samsung or to disclose Samsung information. Rambus also knew of the  
17 fiduciary capacity in which Mr. Steinberg worked for Samsung and the duties that Mr. Steinberg  
18 continued to owe Samsung as a result of his former representation. By engaging Mr. Steinberg to  
19 represent Rambus knowing Mr. Steinberg owed fiduciary duties to Samsung as a former client,  
20 therefore, Rambus aided and abetted Mr. Steinberg in breaching those fiduciary duties as fully  
21 described herein.

22           276.4 Intentional interference with contract as evidenced by the following facts:  
23 Rambus knew of Mr. Steinberg's contractual obligations to Samsung, including his obligations to  
24 disclose the full nature and duration of his employment by Rambus. By secretly engaging Mr.  
25 Steinberg's services in contravention of these duties, therefore, Rambus intentionally interfered  
26 with Mr. Steinberg's employment contract with Samsung and facilitated Mr. Steinberg's violation  
27 of those duties as fully described in herein.  
28

1           276.5 Unfair and anticompetitive business practices against DRAM manufacturers  
2 as a member of JEDEC as evidenced by the following facts: During the 1990's, Rambus  
3 participated actively in industry meetings on standards for SDRAMs and DDR DRAMs at the Joint  
4 Electron Device Engineering Council ("JEDEC"). Rambus improperly used information it  
5 obtained as a result of its membership in JEDEC to secure additional patents and claims. Rambus's  
6 use of this information was in violation of policies applicable to all JEDEC members. Rambus  
7 failure to disclose to other members of JEDEC that it had taken information from JEDEC to craft  
8 its patent claims, only to seek to enforce its claims against JEDEC-compliant products many years  
9 after JEDEC members had invested heavily in the technology without notice of Rambus's conduct.  
10 This conduct was unfair and anticompetitive to all DRAM manufacturers that were members of  
11 JEDEC, including Samsung.

12           277. As a result of Rambus's unfair, unlawful, and anticompetitive conduct, SEC  
13 and SEA, as well as the consuming public, have been damaged. Such injuries to SEC and SEA  
14 include, but are not limited to, the loss of money and property in the form of attorneys' fees paid to  
15 protect and assert SEC's and SEA's right against such unfair conduct, and lost revenues, profits,  
16 and market share.

17           278. Samsung and the public at large, including manufacturers and end-users of  
18 DRAM and DDR technology, will continue to sustain injury and damages from this unfair conduct  
19 by Rambus unless Rambus is enjoined from continuing its unlawful conduct. Samsung is entitled  
20 to recover reasonable attorneys' fees and costs in connection with this Count, as well as all  
21 appropriate restitution and other equitable relief.

22           279. Rambus knew or should have known that its actions in engaging in unlawful  
23 and unfair business practices, and deceptive conduct would be considered contrary to the purpose  
24 of maintaining a profitable business alliance between Rambus and Samsung. Nevertheless,  
25 Rambus concealed from Samsung that it had secretly engaged in unlawful and unfair business  
26 practices, and deceptive conduct.

1           280. Rambus, by its concealment, falsely represented to Samsung that it was still  
2 interested in faithfully remaining a business partner with Samsung in their profitable business  
3 alliance.

4                   **Applicable Statute of Limitations Tolled by Discovery Rule**

5           281. Samsung did not discover and could not have discovered Rambus's  
6 destruction of documents in anticipation of litigation with Samsung, its unfair employment of Neil  
7 Steinberg, or the full nature and extent of the unfair and anticompetitive conduct by Rambus until  
8 the actions of Rambus and Mr. Steinberg were revealed publicly in a trial in *Rambus v. Infineon*, in  
9 the U. S. District Court for the Eastern District of Virginia in 2005. Once Rambus's unfair conduct  
10 was revealed to Samsung, Samsung was able to diligently investigate and pursue any potential  
11 claims against Rambus.

12                   **Applicable Statute of Limitations Tolled by Doctrine of Equitable Tolling**

13           282. Furthermore, the concealment of their actions by Mr. Steinberg and Rambus  
14 prevented Samsung from knowing the full nature and extent of the injury suffered by Samsung due  
15 to Rambus's unfair and anticompetitive conduct.

16           283. Rambus's concealment of its hiring of Mr. Steinberg while he was still an  
17 employee of Samsung and its affirmative misrepresentations to Samsung that it was still a faithful  
18 business partner to Samsung also helped conceal material facts that prevented Samsung from  
19 knowing or discovering the nature and extent of the injury suffered due to Rambus's unlawful,  
20 unfair, and anticompetitive conduct.

21           284. As a result, Samsung was not aware of the full nature and extent of the unfair  
22 and anticompetitive conduct by Rambus until the actions of Rambus and Mr. Steinberg were  
23 revealed during the trial of *Rambus v. Infineon*, in the U.S. District Court for the Eastern District of  
24 Virginia in 2005. Once Rambus's unfair conduct was disclosed, Samsung was able to diligently  
25 investigate and pursue any potential claims against Rambus.

26                   **COUNT VIII (DECLARATORY JUDGMENT OF NONINFRINGEMENT)**

27           285. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and  
28 103-194 above as though fully set forth herein.

286. An actual and justiciable controversy exists between SEC, SEA and Rambus with respect to the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents because Rambus has brought this action against Samsung alleging that Samsung infringes the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents. Absent a declaration of noninfringement, invalidity, and unenforceability, Rambus will continue to wrongfully assert the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents against Samsung, and thereby cause SEC and SEA irreparable injury and damage.

287. SEC and SEA have not infringed the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents, either directly or indirectly, literally or under the doctrine of equivalents, willfully, or otherwise, and SEC and SEA are entitled to a declaration to that effect.

#### **COUNT IX (DECLARATORY JUDGMENT OF INVALIDITY)**

288. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and 103-194 above as though fully set forth herein.

289. An actual and justiciable controversy exists between SEC, SEA and Rambus with respect to the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents because Rambus has brought this action against Samsung alleging that Samsung infringes the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents. Absent a declaration of noninfringement, invalidity, and unenforceability, Rambus will continue to wrongfully assert the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents against Samsung, and thereby cause SEC and SEA irreparable injury and damage.

290. The ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents are invalid for failure to meet the “Conditions for Patentability” of 35 U.S.C. §§ 102 and 103 because the alleged inventions thereof are taught by, suggested by, and/or are obvious in view of, the prior art, and no claim of the ‘184, ‘097, ‘285, ‘051, ‘789, ‘897, ‘6,446, ‘281, ‘037, ‘295, ‘1,446, ‘5,020, ‘696, and ‘598 Patents can be validly construed to cover

any Samsung device, system or operating method related to DRAM memory. Samsung is entitled to a declaration to that effect.

291. The '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents are invalid for failure to meet the "Specification" requirements of 35 U.S.C. § 112 because the written specifications thereof do not describe the alleged inventions and the manner and process of making and using them in the form required by § 112, and no claim of the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents can be validly construed to cover any Samsung device, system or operating method related to DRAM memory. Samsung is entitled to a declaration to that effect.

#### **COUNT X (DECLARATORY JUDGMENT OF UNENFORCEABILITY)**

292. SEC and SEA reallege and incorporate by reference Paragraphs 1-38 and 103-194 above as though fully set forth herein.

293. An actual and justiciable controversy exists between SEC, SEA and Rambus with respect to the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents because Rambus has brought this action against Samsung alleging that Samsung infringes the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents. Absent a declaration of noninfringement, invalidity, and unenforceability, Rambus will continue to wrongfully assert the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents against Samsung, and thereby cause SEC and SEA irreparable injury and damage.

294. The '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents are unenforceable under the provisions of Title 35, United States Code and the equitable doctrines of prosecution laches, unclean hands, and estoppel, and SEC and SEA are entitled to a declaration to that effect.

295. Rambus unfairly and inequitably filed multiple continuation applications over a long period of time. Because Rambus failed to timely prosecute the '184, '097, '285, '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents, the '184, '097, '285,

1 '051, '789, '897, '6,446, '281, '037, '295, '1,446, '5,020, '696, and '598 Patents are unenforceable  
2 due to prosecution laches, and SEC and SEA are entitled to a declaration to that effect.

3 296. The '105, '263, '918, '195, '592, '152, '120, '020, '916, and '863 Patents are  
4 unenforceable based upon, at least, unclean hands, and SEC and SEA are entitled to a declaration to  
5 that effect.

6 297. The '105, '263, '918, '195, '592, '152, '120, '020, '916, and '863 Patents are  
7 unenforceable as to all members of JEDEC including SEC, SEA, SSI, and SAS, due to estoppel.

### 8 **PRAYER FOR RELIEF**

9 WHEREFORE, Samsung asks this Court to enter judgment in its favor against  
10 Rambus and grant the following relief:

11 A. A finding that Rambus breached Section 3.8 of the SDR/DDR IC and  
12 SDR/DDR Memory Module Patent License Agreement Between Rambus Inc. and Samsung  
13 Electronics Co., Ltd., and an award of all damages Samsung Electronics Co., Ltd. suffered as a  
14 result of the breach;

15 B. A finding that Rambus breached Section 8.5 of the SDR/DDR IC and  
16 SDR/DDR Memory Module Patent License Agreement Between Rambus Inc. and Samsung  
17 Electronics Co., Ltd., and an award of all damages Samsung Electronics Co., Ltd. suffered as a  
18 result of the breach;

19 C. A finding that Rambus aided and abetted the breach of fiduciary duty owed  
20 to Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. by Neil Steinberg, and an  
21 award of all damages Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.  
22 suffered as a result of the breach;

23 D. A finding that Rambus intentionally interfered with a contract involving  
24 Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., and an award of all  
25 damages Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. suffered as a result  
26 of that intentional interference;



1 E. A finding that Rambus violated California Bus. & Prof. Code Section  
2 17,200, and an award of restitution for Samsung Electronics Co., Ltd. and Samsung Electronics  
3 America, Inc. for loss suffered as a result of Rambus's unfair conduct;

4 F. A declaration that the claims of U.S. Patent No. 6,182,184 are not infringed  
5 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

6 G. A declaration that the claims of U.S. Patent No. 6,260,097 are not infringed  
7 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

8 H. A declaration that the claims of U.S. Patent No. 6,266,285 are not infringed  
9 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

10 I. A declaration that the claims of U.S. Patent No. 6,314,051 are not infringed  
11 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

12 J. A declaration that the claims of U.S. Patent No. 6,493,789 are not infringed  
13 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

14 K. A declaration that the claims of U.S. Patent No. 6,496,897 are not infringed  
15 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

16 L. A declaration that the claims of U.S. Patent No. 6,546,446 are not infringed  
17 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

18 M. A declaration that the claims of U.S. Patent No. 6,564,281 are not infringed  
19 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

20 N. A declaration that the claims of U.S. Patent No. 6,584,037 are not infringed  
21 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

22 O. A declaration that the claims of U.S. Patent No. 6,697,295 are not infringed  
23 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

24 P. A declaration that the claims of U.S. Patent No. 6,701,446 are not infringed  
25 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

26 Q. A declaration that the claims of U.S. Patent No. 6,715,020 are not infringed  
27 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

1 R. A declaration that the claims of U.S. Patent No. 6,751,696 are not infringed  
2 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

3 S. A declaration that the claims of U.S. Patent No. 6,807,598 are not infringed  
4 by Samsung Electronics Co., Ltd. or Samsung Electronics America, Inc.;

5 T. A declaration that the claims of U.S. Patent No. 6,182,184 are invalid and  
6 unenforceable;

7 U. A declaration that the claims of U.S. Patent No. 6,260,097 are invalid and  
8 unenforceable;

9 V. A declaration that the claims of U.S. Patent No. 6,266,285 are invalid and  
10 unenforceable;

11 W. A declaration that the claims of U.S. Patent No. 6,314,051 are invalid and  
12 unenforceable;

13 X. A declaration that the claims of U.S. Patent No. 6,493,789 are invalid and  
14 unenforceable;

15 Y. A declaration that the claims of U.S. Patent No. 6,496,897 are invalid and  
16 unenforceable;

17 Z. A declaration that the claims of U.S. Patent No. 6,546,446 are invalid and  
18 unenforceable;

19 AA. A declaration that the claims of U.S. Patent No. 6,564,281 are invalid and  
20 unenforceable;

21 BB. A declaration that the claims of U.S. Patent No. 6,584,037 are invalid and  
22 unenforceable;

23 CC. A declaration that the claims of U.S. Patent No. 6,697,295 are invalid and  
24 unenforceable;

25 DD. A declaration that the claims of U.S. Patent No. 6,701,446 are invalid and  
26 unenforceable;

27 EE. A declaration that the claims of U.S. Patent No. 6,715,020 are invalid and  
28 unenforceable;

1 FF. A declaration that the claims of U.S. Patent No. 6,751,696 are invalid and  
2 unenforceable;

3 GG. A declaration that the claims of U.S. Patent No. 6,807,598 are invalid and  
4 unenforceable;

5 HH. Award Samsung, for Rambus's unjust enrichment, all royalties collected by  
6 Rambus on all patents and licenses that benefited in any way from Mr. Steinberg's work for  
7 Rambus prior to termination of his employment by Samsung;

8 II. Hold that any patents or patent applications that claim priority to any patent  
9 or patent application that pre-dates the termination of Mr. Steinberg's employment by Samsung  
10 may not be enforced against SEC, SEA, or any of their subsidiary or affiliate companies;

11 JJ. An injunction barring Rambus from enforcing its patents;

12 KK. A finding that this case is an exceptional case and an award of attorneys' fees  
13 and costs to Samsung pursuant to 35 U.S.C. § 285; and

14 LL. Any and all other relief to which it may be justly entitled.

15 Dated: November 17, 2005.

16 Respectfully submitted,

17  
18 By: /s/ Matthew D. Powers

Matthew D. Powers

19 Attorney for Defendants

20 SAMSUNG ELECTRONICS CO., LTD.,  
21 SAMSUNG ELECTRONICS AMERICA, INC.,  
22 SAMSUNG SEMICONDUCTOR, INC., and  
23 SAMSUNG AUSTIN SEMICONDUCTOR, L.P.  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Defendants SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG SEMICONDUCTOR, INC., and SAMSUNG AUSTIN SEMICONDUCTOR, L.P, hereby demand a trial by jury on all issues triable of right by a jury that are raised for determination by this Amended Complaint or that may be raised by any counterclaim to be filed herein.

Dated: November 17, 2005

WEIL, GOTSHAL & MANGES LLP

By: /s/ Matthew D. Powers

Matthew D. Powers

Attorney for Defendants

SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA, INC.,  
SAMSUNG SEMICONDUCTOR, INC., and  
SAMSUNG AUSTIN SEMICONDUCTOR, L.P.

**CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

Pursuant to Civil Local 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: November 17, 2005

WEIL, GOTSHAL & MANGES LLP

By: /s/ Matthew D. Powers

Matthew D. Powers

Attorney for Defendants

SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA, INC.,  
SAMSUNG SEMICONDUCTOR, INC., and  
SAMSUNG AUSTIN SEMICONDUCTOR, L.P.